


**This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.**

**IT IS SO ORDERED.**

**Dated: June 11, 2019**



  
Guy R. Humphrey  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

In re: TAGNETICS INC.,

Case No. 19-30822

Judge Humphrey  
Chapter 7

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**Order Rescheduling Pretrial Conference and Trial on Involuntary Petition (doc. 1), Setting Documentary and E-Discovery Cut-Off Date, Requiring Filings and Ordering Other Matters**

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In accordance with the court's concurrently entered *Order Granting Motion to Continue Trial*, this order reschedules the trial on the Involuntary Petition (doc. 1) and Tagnetics Inc.'s Answer (doc. 10) from June 12, 2019 at 9:30 a.m. to **July 29, 2019 at 9:30 a.m.** In addition to rescheduling the trial, this order sets a discovery cut-off date for documentary and electronic discovery, schedules a pretrial conference, extends various trial-related filing deadlines and **requires the participation of counsel for the United States Trustee in all further proceedings.**

Further, the court notes that counsel for Petitioning Creditors Kayser Ventures Ltd. and S-Tek Inc. has filed witness and exhibit lists and copies of proposed exhibits, in the record of this case. See docs. 25 & 26. Kayser Ventures and S-Tek are not required to re-file these documents. However, to the extent that either party wishes to supplement these filings, any such supplement shall be filed in accordance with provision IV of this order.

All other provisions of the court's prior Order (doc. 22) remain in full force and effect as restated below:

### **I. Discovery**

**The discovery cut-off date in this contested matter for all documentary and electronic discovery is established as June 28, 2019.** All such discovery must be completed by the discovery cut-off date. For example, interrogatories or requests for admissions must be served in sufficient time to permit responses to be served by the cut-off date. Untimely discovery requests are subject to objection on that basis; however, counsel are ordered to cooperate with each other in all discovery matters. See LBR 7026-1. Counsel for Petitioning Creditors Kayser Ventures and S-Tek and for Tagnetics shall take all appropriate measures to ensure that all discovery responses are shared with all parties-in-interest to this contested matter.

**Further, all parties shall proceed with scheduling any required depositions on an expedited and cooperative basis.**

**Completion of discovery does not relieve any party of its continuing obligations of disclosure and supplementation under Fed. R. Bankr. P. 7026 incorporating Fed. R. Civ. P. 26(e).**

### **II. Pretrial Conference**

The court shall hold a telephonic pretrial conference pursuant to Local Bankruptcy Rule 7016 on **July 19, 2019 at 11:00 a.m. (Eastern Time).** The court will arrange a conference call with a conferencing service and all parties will be sent an email prior to the scheduled pretrial conference with the information necessary to connect to the call.

**Counsel for the Tagnetics Inc.; counsel for Petitioning Creditors Kayser Ventures Ltd. and S-Tek Inc.; Pro Se Petitioning Creditors Kenneth Kayser, Ronald Early, Jonathan Hager and Robert Strain; and counsel for the United States Trustee shall participate in the pretrial conference scheduled above.**

### **III. Trial**

**IT IS ORDERED that** a trial shall be held on **July 29, 2019 at 9:30 a.m.** before United States Bankruptcy Judge Guy R. Humphrey in the West Courtroom on the First Floor of The United States Bankruptcy Court, 120 West Third Street, Dayton, Ohio on the following filings:

- *Involuntary Chapter 7 Petition Against a Non-Individual* (doc. 1), filed by Petitioning Creditors Kenneth W. Kayser, Ronald E. Early, Kayser Ventures Ltd, Jonathan Hager, Robert Strain and S-Tek Inc. on March 19, 2019
- *Tagnetics Inc.'s Answer to Involuntary Bankruptcy Petition* (doc. 10), filed on May 13, 2019

The purpose of the scheduled trial is to determine if an order for relief should be entered in this Chapter 7 case. See 11 U.S.C. § 303(b) and (h). As part of the trial, the court also will hear any and all evidence concerning Tagnetics Inc.'s allegation that the petition was filed in bad faith by the petitioning creditors. Any damages hearing will be scheduled separately only if the petition is dismissed and the court enters a separate finding that any of the petitioning creditors acted in bad faith by filing the involuntary petition. See 11 U.S.C. § 303(i)(2).

The parties shall cooperate expeditiously in any needed discovery. LBR 7026-1(a). Notwithstanding LBR 7026-1(b), the parties shall, prior to filing any discovery motion, contact the Courtroom Deputy by email at [Joni\\_Behnken@ohsb.uscourts.gov](mailto:Joni_Behnken@ohsb.uscourts.gov) or by phone at 937-225-2863 concerning any discovery disputes and any such issue will be addressed as promptly as practicable by the court. See Fed. R. Bankr. P. 1013(a) (requiring the issues concerning a "contested petition" be determined at the "earliest practicable time").

**Further, although this court attempts to remain sensitive to procedural issues involving pro se parties who are unfamiliar with bankruptcy law, the court notes that all parties, including pro se parties, are required to comply with the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules and this court's orders.**

#### **IV. Witness and Exhibit(s) Lists and Filing, Presentation, and Admission of Exhibits**

In accordance with the provisions of Local Bankruptcy Rule 7016-1, counsel and pro se parties shall complete the appropriate Local Bankruptcy Rule Form 7016-1 (Attachment A) Witness List(s), containing the person(s) who the Petitioning Creditors, Tagnetics or other parties may call, or have available for testimony at the trial, including separately designated expert witnesses, which shall be filed with the court and exchanged with counsel **not later than July 22, 2019.**

In accordance with the provisions of Local Bankruptcy Rule 7016-1, counsel and pro se parties shall complete the appropriate Local Bankruptcy Rule Form 7016-1 (Attachment B) Exhibit List(s). The Exhibit List(s), **together with complete copies of all proposed exhibits which the Petitioning Creditors or Tagnetics Inc. may offer as exhibits individually and/or jointly**, shall be filed with the court and exchanged with opposing counsel **not later than July 22, 2019.** Exhibits not timely exchanged may not be admitted at the trial.

- **Each party shall pre-mark all exhibits.** The trial will not commence until all exhibits have been suitably labeled. Absent unusual circumstances the Courtroom Deputy will not mark exhibits during the course of the trial.

- Parties shall mark exhibits as follows:

**Numbers – Petitioning Creditors**  
**Letters – Tagnetics Inc.**

- **At the conclusion of the trial, counsel shall provide an original hard copy of each exhibit proffered to the court as evidence during the course of the hearing to be retained by the court as part of the record.** Presentation of all exhibits during the trial shall be by means of the court's electronic display system. If counsel intends to present exhibits electronically from a laptop computer or use other digital presentation devices, then counsel must provide at least three (3) days advance notice to the court to ensure security clearance and technical compatibility. Courtroom equipment testing and setup of counsel-provided devices are the responsibility of counsel and should be completed prior to the hearing commencement time.

Copies of witness lists - Form 7016 (Attachment A) Witness List(s) and copies of exhibit lists Form 7016 (Attachment B) Exhibit List(s) [Individual or Joint Exhibit(s)] are available from the court's website [www.ohsb.uscourts.gov](http://www.ohsb.uscourts.gov) and from the Clerk of the Bankruptcy Court in this District.

#### **V. Stipulations**

All stipulations of the parties, even if previously filed or referred to in documents previously filed, shall be filed following this order as a separate document captioned **Stipulation(s) Of The Parties** and all such stipulation(s) shall be filed **not later than July 22, 2019.**

**In the event that counsel or any pro se party propose to introduce documentary evidence, counsel and the pro se parties are required to exercise all good faith attempts to enter into stipulations concerning such documentary evidence and avoid the appearance and testimony of any witness whose sole purpose is to provide testimony, which will not be disputed, concerning the authentication and identification of such documentary evidence.**

#### **VI. Memoranda of Law**

**In the event the parties choose to do so, they may file a pre-trial legal memorandum not later than July 22, 2019. The filing of such memoranda is encouraged, but not mandatory.**

### **VII. Courtroom Conduct**

The following procedures are to be followed in all contested matters and proceedings in the courtroom:

At the commencement of the trial, each attorney and pro se party shall stand and state his or her name and introduce by name the parties and witnesses present for that attorney's or party's cause. Each attorney or pro se party shall also state that the names of all witnesses and copies of all proposed exhibits have been exchanged with all other attorneys and pro se parties.

All persons, whether counsel, parties, or witnesses, shall be formally addressed by their surnames whenever possible.

#### **IT IS SO ORDERED.**

Copies to:

All Creditors and Parties in Interest

Stephen B. Stern, 238 West Street, Annapolis, Maryland 21401

Douglas S. Draper, 650 Poydras Street, Suite 2500, New Orleans, Louisiana 70130

Leslie A. Collins, 650 Poydras Street, Suite 2500, New Orleans, Louisiana 70130

MaryAnne Wilsbacher, Office of the United States Trustee, 170 North High Street, Suite 200, Columbus, Ohio 43215